

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION

CALVIN WILHITE,

Plaintiff,

v.

No. 09-2196 B

CORRECTIONS CORPORATION OF  
AMERICA, et al.,

Defendants.

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ORDER DISMISSING CLAIMS AGAINST UNNAMED DEFENDANTS  
AND ORDER TO SHOW CAUSE WHY CLAIMS AGAINST DEFENDANT HUGELEY  
SHOULD NOT BE DISMISSED

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The Plaintiff, Calvin Wilhite, initially brought suit in this matter against Corrections Corporation of America ("CCA"); the State of Tennessee; Hardeman County Correctional Facilities Corporation ("HCCFC"); Joe Easterling, individually and in his official capacity as warden of HCCFC; Jermaine Hugeley; Jane Does 1-3 and Guards 1-3. The State of Tennessee was dismissed as a Defendant on June 30, 2009. (D.E. 26.) Summary judgment was granted in favor of Defendants CCA, HCCFC and Easterling in an order entered February 26, 2010. (D.E. 39.) Plaintiff's motion to reconsider the Court's order was denied on June 29, 2010. (D.E. 42.)

Thus, the only remaining Defendants in this matter are Hugeley and the unnamed Jane Does and Guards. With respect to the former, the docket reflects that summons was issued on April 23, 2009. According to Rule 4(m) of the Federal Rules of Civil Procedure, "[i]f a defendant is not served within 120 days after the complaint is filed, the court -- on motion or on its own after notice to the plaintiff -- must dismiss the action without prejudice against that defendant or order that service be made within a specified time." Fed. R. Civ. P. 4(m). As the 120-day period has long

passed, the Plaintiff is hereby ORDERED to show cause, within fourteen (14) days of the entry hereof, why his claims against Hugeley should not be dismissed for failure to effect service. Failure to respond within the time period permitted herein will result in dismissal of the claims against this Defendant.

Further, failure to effect service of process on unnamed defendants within 120 days as required by Rule 4(m) is grounds for dismissing such defendants. Dubose v. City of Morristown, No. 2:07-CV-115, 2009 WL 1766008, at \*6 (E.D. Tenn. June 22, 2009). As there is no indication the unnamed Jane Does and Guards have been served, they are dismissed from this suit without prejudice.

IT IS SO ORDERED this 29th day of June 2010.

s/ J. DANIEL BREEN  
UNITED STATES DISTRICT JUDGE